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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/077,191 | 02/15/2002 | Jordan T. Bourilkov | 08935-258001 / M-4980 | 9513 |
| 26161 | 7590 | 01/12/2005 | EXAMINER | |
| FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110 | | | PATEL, RAJNICKANT B | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 2838 |

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/077,191 | BOURILKOV ET AL. |
| | Examiner Rajnikant B Patel | Art Unit 2838 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 November 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 10,11,14-17 and 19-37 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 10,11,14-17 and 19-37 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/01/03

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

1. Claim 10 is objected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. In claim 10 "the resistor voltage divider having a resistance value selected to provide from the DC/DC converter a fixed output voltage that is less than the full charge voltage of the rechargeable cell" is confusing and not clear because how a fixed output voltage being less than the full charge voltage of the rechargeable cell, since the rechargeable cell has fixed voltage and there is possibility that after two or three time charging the battery at full charge the full charge capacity will vary. It is not clear how to select resistance value?

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10-11,14,15-17,19 and 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Fishman et al. (U.S. Patent # 5,646,501).

As best understood Fishman et al. disclose the claimed invention a hybrid power supply (figure 5), a switching type DC/DC converter, a primary cell, an Li-Ion or Li-Polymer

rechargeable cell, a resistor voltage, a feedback input (column 5, line 35-65) and resistance value selected (column 6, line 35-60).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 20-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne (U.S. Patent # 5,309,082) in combination with Fishman et al. (U.S. patent # 5,646,501).

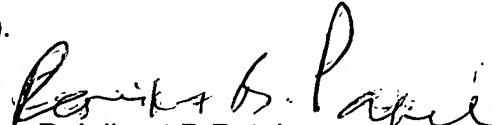
Payne discloses claimed invention a hybrid power supply (figure 1-3), including a switching type DC/DC boost type converter (column 2, line 25-31), an operational amplifier (figure 2, item 66) and a closed feedback loop (column 3, line 30-45). However Payne does not disclose the utilization of the technique for a primary battery cell or another current limiting power source and Li-Ion or Li-Polymer rechargeable cell as a load and controlling a circuit for delivering constant current. Fishman et al. teaches the utilization of the similar technique for a primary battery cell or another current limiting power source and Li-Ion or Li-Polymer rechargeable cell as a load and controlling a circuit for delivering constant current as explained in the claims 10-11,14 and 15-17 above. It would have been obvious one having an ordinary skill in the art at the time the

invention was made to modify Payne's hybrid power supply by utilizing the technique taught by Fishman et al. for the purpose of providing an improved power supply for charging Li-Ion or Li-Polymer rechargeable cell.

6: Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rajnikant B Patel whose telephone number is 305-7042. The examiner can normally be reached on 6.30-5.00; m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on 703-308-1680. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Rajnikant B Patel
Primary Examiner
Art Unit 2838
